

# FPPC *Bulletin*



June 2004

Fair Political Practices Commission

Volume 30, No. 2

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## **Toll-free Advice Line: 1-866-ASK-FPPC**

Public officials, local government filing officers, candidates, lobbyists and others with obligations under the Political Reform Act are encouraged to call toll-free for advice on issues including campaign contributions and expenditures, lobbying and conflicts of interest. *FPPC staff members answer thousands of calls for telephone advice each month.*

## FPPC Studies Rule Update For Electronic Contributions

In the nearly 30 years since the Political Reform Act was approved by voters, the FPPC has undertaken numerous projects intended to keep our regulations up to date and in pace with changing times.

A current Commission project is examining campaign contributions made through electronic means — such as the Internet and debit cards — and how certain regulations could be amended to update and clarify recordkeeping and disclosure requirements for such contributions.

The Commission is expected to consider this issue at its June 25, 2004, meeting.

As technology has emerged to support the making and receipt of contributions via electronic means, candidates and committees have sought advice regarding the permissibility of electronic contributions. These requests have primarily questioned whether, and under what circumstances, a committee may receive electronic contributions and what records should be kept.

In general, FPPC staff members have advised that electronic contributions are allowed under the Act and emphasized the importance of timely and accurate disclosure of all contributions. Staff has advised that electronic contributions are “received” when authorized by the contributor. Staff advice has also reminded candidates and committees of the importance of maintaining detailed records and the source documentation needed to prepare campaign statements and comply with the recordkeeping provisions of the Act.

Most guidance provided by the Commission has been through advice letters and the campaign manuals. For instance, in 2000,

*(Continued on page 2)*

**California  
Fair Political  
Practices Commission**

**Commissioners**

Liane Randolph, Chair  
Philip Blair  
Sheridan Downey III  
Pamela Karlan  
Thomas S. Knox

**Commission Meetings**

Meetings are generally scheduled monthly in the Commission Hearing Room, 428 J Street, 8<sup>th</sup> Floor, Sacramento. Please contact the Commission or check the FPPC web site, <http://www.fppc.ca.gov>, to confirm meeting dates.

Pursuant to section 11125 of the Bagley-Keene Open Meeting Act, the FPPC is required to give notice of its meetings ten (10) days in advance of the meeting. In order to allow time for inclusion in the meeting agenda and reproduction, all Stipulation, Decision and Order materials must be received by the FPPC no later than three (3) business days prior to the ten day notice date.

The Commission meeting agenda and supporting documents are available free of charge on the Commission's web site at <http://www.fppc.ca.gov>. Additionally, past and future agendas are posted on the web site.

## ...Electronic Contributions

*(Continued from page 1)*

Commission staff addressed the issue of contributions made via the Internet. (*Bergeron* Advice Letter, No. I-00-089.) Staff advised that contributions could be made via the Internet, "as long as the Act's disclosure and recordkeeping requirements" were met, including all information regarding each contributor and all detailed records and source documentation needed to comply with the provisions of the Act.

However, recent staff interviews with several campaign treasurers indicated that the regulated community follows a different time line for determining when an electronic contribution is "received." In addition, these interviews revealed that the types of records kept for electronic contributions vary within the regulated community.

In order to remedy these discrepancies, FPPC staff members have proposed amendments to regulations 18401 and 18421.1 which would establish recordkeeping and disclosure standards for electronic contributions.

Regulation 18401, the required recordkeeping regulation, would be amended to outline which records must be retained for a contribution made through electronic means.

Regulation 18421.1, which contains the standards for determining when a contribution is made or received, would be amended to provide a clear rule for determining when an electronic contribution has been "made" or "received."

This article is adapted from a FPPC Legal Division Memorandum written by Staff Counsel Galena West, Executive Fellow Stephanie Dougherty, and General Counsel Luisa Menchaca.

For more information on this subject and the full text of the memorandum, please see the June Commission agenda materials on our web site at:

[www.fppc.ca.gov/index.html?id=329](http://www.fppc.ca.gov/index.html?id=329)

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Enforcement hotline: 1-800-561-1861

The *Bulletin* is published quarterly on the FPPC web site. To receive the *Bulletin* by e-mail, use our web site Mailing Lists tool at <http://www.fppc.ca.gov/index.html?id=408>

## Frequently Asked Proposition 34 Questions

By Jeanette Turvill  
FPPC Political Reform Consultant

*Q: John Hughes is a "termed out" senator with no debt in his campaign committee. May Senator Hughes continue to raise money into his Senate committee?*

A: No. After an election, regardless of when the election was held, a committee formed for a state office may only raise money to pay off net debts outstanding from the election.

*Q: Assemblywoman Teri Mayer is planning to run for Senate in 2006. How must she report the transfer of funds from her 2004 Assembly committee to her 2006 Senate committee?*

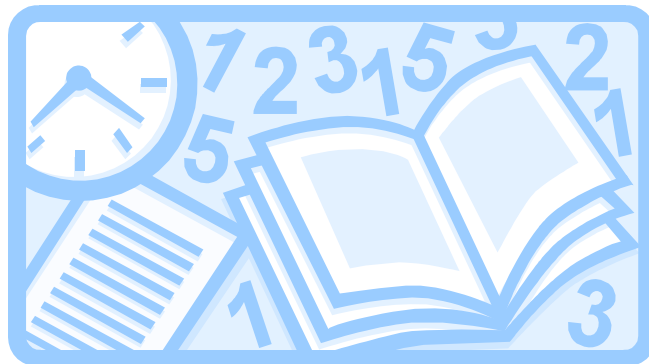
A: Since the Senate 2006 election is for a different office, she must use the "last in, first out" or "first in, first out" accounting method to transfer funds to the Senate committee. Note: She is not required to transfer all of her funds to the Senate 2006 committee, but may leave some in her existing Assembly committee for officeholder expenses.

*Q: Hal Jones is a candidate for the Legislature in the November 2004 General Election. If he receives a contribution on the day after the election that was mailed prior to the election, may he keep the contribution if the committee has no debt?*

A: No. A contribution is received on the date the candidate or committee obtains possession or control of it. Because the committee does not have debt, the contribution may not be deposited in the committee account and must be returned within 14 days of receipt, or it shall be deemed accepted for purposes of the contribution limits.

*Q: Senator Trish Martinez holds funds from a prior congressional race in a federal committee. May she transfer funds from the federal committee into her future reelection Senate committee?*

A: Yes. Funds from a federal committee may be transferred, subject to attribution, into a campaign committee for state office.



*Q: Are funds transferred from Assemblyman Howard's Assembly committee into his 2004 Senate committee subject to the 24-hour late contribution reports or the election cycle reports filed under California Government Code section 85309?*

A: No. Transfers of funds between campaign committees controlled by a single candidate are not considered contributions under the Act. Such transfers do not trigger late contribution reports or the election cycle reports under section 85309.

*Q: A state Senate committee formed for an election in 2000 has debt. Are contributions to this committee subject to contribution limits?*

A: No. Subject to the cap of total net debt outstanding, contributions to a Senate committee formed for an election held before 2001 are not subject to contribution limits.

## November Is Quickly Approaching — Schedule Your Candidate/Treasurer Seminar Now

By Hal Dasinger  
FPPC Political Reform Consultant

*If I'm a candidate and I raise less than \$1,000, do I still need to open a bank account? What if I want to be my own treasurer? Should I be reimbursed from committee funds for the filing fee? May I use my leftover campaign money to run again?*

The answers to these questions and many more are revealed in the FPPC's candidate/treasurer seminars. Many California jurisdictions will conduct local elections in November 2004. Right now is a good time for those cities or counties to call the FPPC and schedule a campaign filing seminar for the benefit of candidates and treasurers. Seminars have already been scheduled in Sacramento, Santa Clara, Santa Monica, Thousand Oaks, and Arroyo Grande. Check our web site for an updated list of seminar dates, times and locations:

<http://www.fppc.ca.gov/index.html?id=23>

The seminars cover filing requirements for candidate-controlled committees. Those attending will learn the general rules and prohibitions governing campaigns, how to complete and file campaign reports, and what to do after the election is over. Other topics include required record-keeping, mass mailer identification requirements, and how to avoid common mistakes. The two-hour seminars include detailed discussion of the most frequently required forms for local candidates. Participants will learn how to decide what is or is not a contribution, how to value non-monetary contributions, the rules for using a credit card for campaign spending, and where to file each form. In addition, an FPPC consultant will answer individual questions from attendees during and after the seminar.

Because of budget constraints, we ask that a jurisdiction requesting a seminar cover travel costs for providing the session. It is a small price to pay for better-informed campaign filers, so don't wait—call 1-866-ASK-FPPC to schedule your seminar today.

## Future Meeting Dates

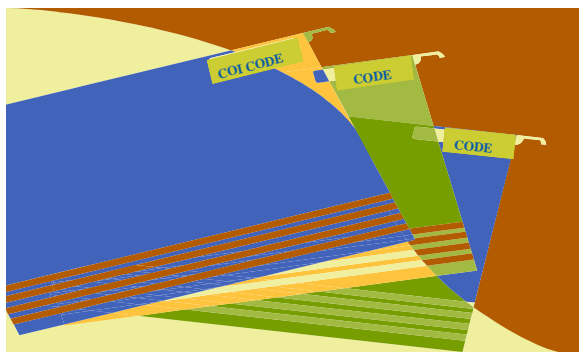
The Fair Political Practices Commission currently is planning to meet on the following dates during the remainder of calendar year 2004:

**Friday, June 25**  
**No July meeting**  
**Thursday, August 5**  
**Thursday, September 2**  
**Thursday, October 7**  
**Thursday, November 4**  
**Thursday, December 2**

Meetings generally begin at 9:30 a.m. or 9:45 a.m. in the FPPC's 8th floor hearing room at 428 J Street, Sacramento, but check the FPPC web site regularly as dates and times can change.



**FPPC**  
**Toll-free Advice Line:**  
**1-866-ASK-FPPC**  
**(1-866-275-3772)**



## It's Time for Local Agencies To Review Conflict of Interest Codes

Each code reviewing body for local government agencies (i.e., county boards of supervisors and city councils) must, no later than July 1, 2004, notify each agency in its jurisdiction that the agency must review its conflict of interest code. The review is necessary to determine if the code is accurate, or if it requires an amendment.

The Political Reform Act requires every local government agency to review its conflict of interest code biennially and to return a report to its respective code reviewing body no later than October 1 of even-numbered years. Therefore, you must notify your agencies by July 1, 2004, to conduct this review and to report back to you by October 1, 2004. These biennial reports are not sent to the FPPC.

Should an agency report back to you that an amendment is necessary, the amended code is due to you within 90 days for your approval. An agency's amended code is not effective until it has been approved by its respective code reviewing body. Note that the FPPC is the code reviewing body for multi-county agencies and will contact these agencies directly.

Should you have any questions regarding the biennial review process, please feel free to call the FPPC. Copies of biennial notices and additional information can be found on our website at [www.fppc.ca.gov](http://www.fppc.ca.gov).

## Web Site Update



By Jon Matthews  
FPPC Publications Editor

The FPPC has consolidated several of its automatic e-mail subscription lists. This was done to streamline our e-mail subscription system, make the system easier to use, and reduce the number of duplicate FPPC e-mails some people have been receiving.

### *What has changed?*

All e-mail notices that we previously sent out on the FPPC Regulations list and the FPPC Section 1090 Merger Study list will now be sent out on the FPPC's Interested Person's list.

We have transferred the e-mail addresses of all Regulations list and Section 1090 Merger Study list subscribers to the Interested Persons list. We have closed the Regulations and Section 1090 Study lists and will no longer send any notices through them.

The end result is a single FPPC Interested Persons e-mail list that offers:

- ◆ news and notices about our meetings to solicit public input on regulatory proposals and other projects,
- ◆ notices of proposed and newly adopted regulations, and
- ◆ notices and news about our staff study to investigate the possible merger of conflict of interest laws that are not currently in the Political Reform Act into the framework of the Act.

### *What about the other FPPC e-mail lists?*

The other FPPC e-mail subscription lists (the FPPC *Bulletin*, Form 700, Agenda, and

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## ...Web Update

(Continued from page 5)

Press Releases) are not affected by the changes.

As always, if you wish to be removed from a FPPC e-mail subscription list, or subscribe to additional lists, please visit the "Mailing Lists" section of the FPPC web site at:

<http://www.fppc.ca.gov/index.html?id=408>

You also can access the Mailing Lists page from the choices on the left side of our home page at [www.fppc.ca.gov](http://www.fppc.ca.gov).

To confirm that you are a subscriber to the Interested Persons list or another list, you can subscribe to the list and you will be automatically notified if you are already a subscriber.

Notice of the consolidation was e-mailed on June 4 to all subscribers of the Regulations list and Section 1090 Merger Study list.

If you have any questions about these changes, please feel free to e-mail FPPC Publications Editor Jon Matthews at [jmatthews@fppc.ca.gov](mailto:jmatthews@fppc.ca.gov), or call him at (916) 323-2937.

Several other areas of our web site have been updated recently:

### Biennial Notice Page

We have added 2004 notices and information to our Local Agency Conflict of Interest Code Biennial Notice page. This page can be reached through our site's Conflict of Interest section or directly through this link:

<http://www.fppc.ca.gov/index.html?id=370>

This page now has the following posted:

- ◆ The 2004 Local Agency Biennial Notice for City and County Agencies
- ◆ The 2004 Multi-County Agency Biennial Notice

- ◆ A Biennial Notice Worksheet that may assist in the review of an agency's conflict of interest code
- ◆ Notice of Intention (multi-county agencies)
- ◆ Executive Director's Declaration (multi-county agencies)
- ◆ Multi-County Agency Amendment Guidelines

See the article on page 5 of this issue for more information on these notices.

### Candidate Seminars

Check our Candidate Seminars and Workshops page for the latest scheduled 2004 seminars for candidates and treasurers. The page is at this link:

<http://www.fppc.ca.gov/index.html?id=23>

For information on how to schedule a seminar in your area, please see the article on page 4 of this issue of the FPPC *Bulletin*.

Remember that we have two newly revised campaign disclosure manuals available for downloading and reading on our site:

- ◆ Campaign Disclosure Manual 1 is for state candidates, their controlled committees, and primarily formed committees for state candidates
- ◆ Campaign Disclosure Manual 2 is for local candidates, superior court judges, their controlled committees, and primarily formed committees for local candidates

The link to the manuals is:

[www.fppc.ca.gov/index.html?id=234#2004](http://www.fppc.ca.gov/index.html?id=234#2004)

Campaign Disclosure Manuals 1 and 2 replace the former FPPC Campaign Manuals A and B.



## The Clerks' Corner

# Reviewing Campaign Statements

## ***What Are Filing Officers Required To Do?***

By Jeanette Turvill  
FPPC Political Reform Consultant

**A**s a filing officer, you must review all original campaign statements filed with you to determine if the statements are complete. You are not required to seek or obtain information to verify entries, examine previously filed statements, or check mathematical calculations.

Below is a short list of some of the typical errors to look for when reviewing campaign statements:

- ◆ Is the period covered on the cover page correct? Do the dates for all transactions fall within the period covered? Only the activity that occurred during the period covered by the statement should be included.
- ◆ Is the verification signed and dated in ink by both the candidate and the treasurer? Note that if a candidate is functioning as his/her own treasurer, the candidate must sign as the candidate and as the treasurer.
- ◆ Is every line in Column A of the summary page filled in? It may be that the committee had nothing to report on a particular schedule, in which case the line for that schedule should

have a zero, "n/a" or similar notation.

- ◆ Is Column B of the summary page completed?
- ◆ Were the totals from each schedule accurately transferred to the summary page?
- ◆ Are addresses complete for contributions received or expenditures made?
- ◆ Do contributions from individuals reflect the occupation and employer of the contributor? (See sample letter on the following page to use when requesting an amended statement to provide occupation or employer information of a contributor.)

Once you have identified errors that must be corrected, a letter requesting the correction or additional information should be sent. Do not return the campaign statement itself or allow the correction to be made directly on the filed statement. Additionally, only the pages or schedules needing correction or amendment must be returned to you, not the entire campaign statement.

A statement may be amended by the filer at any time. There are no penalties for filing an amendment. Amending an incorrect or incomplete statement may be considered as evidence of good faith. (Gov. Code section 81004.5.)

*(Continued on page 8)*

**Filing Officers! The FPPC's toll-free advice line is also for you. Call 1-866-ASK-FPPC (1-866-275-3772) with your questions on filing and other issues.**



## ...The Clerks' Corner

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**Here is a sample letter to a committee asking for address and/or employer and occupation information missing for contributions from individuals:**

Dear (Filer):

California state law requires committees to disclose the name and address of each contributor of \$100 or more in a calendar year, and if the contributor is an individual, then disclose the occupation and employer information. If you do not obtain the information within 60 days of receiving a contribution, it must be returned to the contributor. If the contribution cannot be returned, it must be paid to the (name of your jurisdiction) general fund. (Gov. Code Section 85700.)

A review of your campaign statement filed on (date) indicates that the name and address and/or occupation and employer information is missing for contributors. You must amend your campaign statement within 70 days of the closing date of this statement to include this information. (FPPC Regulation 18570.) The due date for this amendment is (enter date).

If you have any questions regarding compliance with this requirement, please contact the Fair Political Practices Commission at 866-ASK-FPPC (866-275-3772).

Sincerely,

(Your name)  
Filing Officer



## ...The Clerks' Corner

### Notifying Late Filers of Campaign Statements

By Jeanette Turvill  
Political Reform Consultant

A filing deadline comes and goes and you know a committee owes you a campaign statement. Now what? As a filing officer, you have an obligation to notify late filers of a missed filing deadline. Note that you do not have an obligation to notify them of an upcoming deadline; it is their obligation to know their filing requirements. You are only required to contact the committee when they fail to meet a deadline.

This notification should be by letter so that you have a written history of notification for possible enforcement referral. The first letter could simply remind the filer that they missed a deadline. If the committee does not respond to this letter, you can send another reminder letter

or a letter referred to as "Specific Written Notice."

In a "Specific Written Notice" letter, you advise the filer that they missed a deadline and advise the filer that they are accruing penalties of \$10 a day until such time that the statement is filed and that they should file their statement by a specific date (*10 days from date of letter/5 days from date of letter in the case of a second pre-election statement*) and provide you with a reason for the late filing. In this communication, tell them that if they fail to file by the specified date you have given them, state law requires you to impose the late filing penalty, regardless of the reason for the late filing. (See letter in inset.)

If you still do not receive a statement after at least two written notifications, the non filer should be referred to the Commission's Enforcement Division. Include copies of your letters and also document any telephone conversations, or over-the-counter conversations, you may have had with the filer regarding the statement. The Enforcement Division has a referral sheet for your use in transmitting non filers. You may contact the FPPC to obtain the Non Filer Referral Sheet.

#### Here is a sample specific written notice:

Dear (insert name) :

On (date), our office wrote to you stating that we have not received your campaign disclosure statement, which was due on (date). To date, our office has not received this statement. Please file your campaign statement within (10 days / 5 days) of the date of this letter. A late filing penalty cannot be waived if the statement is filed after this date.

Government Code Section 91013 imposes a fine of \$10 per day after the filing deadline until the statement is filed. The liability is limited to the cumulative amount of contributions received or expenditures made for the period covered by the late statement or \$100, whichever is greater.

Our office may refer this matter to the Fair Political Practices Commission's Enforcement Division if the statement is not filed.

Sincerely,

(Your name)  
Filing Officer

## Meeting Summaries

Summaries of actions at the Commission's regular monthly meetings are posted on the Commission's web site at:

<http://www.fppc.ca.gov/index.html?id=63>

See the following article for a summary of enforcement actions.

## Enforcement Summaries

### May Commission Meeting

#### Conflicts of Interest

#### **In the Matter of Vikram Budhraj, FPPC No. 02/1075.**

Staff: Commission Counsel Julia Bilaver, Supervising Investigators Dennis Pellón and Sue Straine, and Investigator III Dan Schek.

As a consultant for the Department of Water Resources, Mr. Budhraj participated in making five governmental decisions in which he had a financial interest, by advising state officials regarding the purchase of energy from two companies in which he had an economic interest, in violation of section 87100 of the Political Reform Act (5 counts). \$17,500 fine.

#### Campaign Reporting Violations - Default

#### **In the Matter of Armando Rea, and Citizens to Elect Armando Rea, FPPC No. 97/352.**

Staff: Commission Counsel Steven Meinrath and Investigator III Sandra Buckner.

Armando Rea, a successful incumbent candidate for Lynwood City Council in the Nov. 4, 1997, general municipal election, and Citizens to Elect Armando Rea, his controlled committee, failed to timely file a pre-election campaign disclosure statement, in violation of section 84200.8 (1 count); failed to timely file semi-annual campaign disclosure statements, in vio-

lation of section 84200(a) (2 counts); failed to report campaign contributions, in violation of section 84211 (4 counts); failed to report campaign expenditures, in violation of section 84211 (2 counts); failed to report the true source of non-monetary campaign contributions, in violation of section 84211 (1 count); failed to properly dispose of anonymous contributions, in violation of section 84304 (1 count); accepted cash contributions, in violation of section 84300(a) (1 count); failed to disclose late contributions in late contribution reports, in violation of section 84203 (2 counts); and failed to maintain detailed records and accounts as were necessary to prepare campaign statements, in violation of section 84104 (1 count). \$30,000 fine.

#### Campaign Reporting Violations

#### **In the Matter of Plus One, Inc., FPPC No. 03/418.**

Staff: Commission Counsel Jennie Eddy and Investigator III Jon Wroten.

Plus One, Inc., a valve sales and distribution corporation located in San Ramon, Calif., committed one violation of the Act by failing to timely file a semi-annual campaign statement, in violation of section 84200(b) (1 count). \$2,000 fine.

#### SEI Violations

#### **In the Matter of Paul Glaab, FPPC No. 02/545.**

Staff: Commission Counsel Jeffery A. Sly and SEI Coordinator Mary Ann Kvasager.

Paul Glaab, a member of the California Earthquake Authority, failed to timely file a 2001 annual, and a leaving office Statement of Economic Interests, in violation of section 87300 (2 counts). \$800 fine.

#### Late Contribution -- Streamlined Program

#### **Failure to Timely File Late Contribution Reports -- Proactive Program.**

Staff: Chief Investigator Alan Herndon, Investigator III Jon Wroten, and Political Reform Con-

*(Continued on page 11)*

(Continued from page 10)

sultant Mary Ann Kvasager.

The following persons and entities have entered into stipulations for failure to file late contribution reports in 2003, in violation of section 84203:

- **In the Matter of Mary Quinn Delaney, FPPC No. 2004-140.**

Mary Quinn Delaney of Oakland, Calif., failed to timely disclose a late contribution totaling \$50,000 (1 count). \$3,500 fine.

- **In the Matter of Roger C. Hobbs, FPPC No. 2004-143.**

Roger C. Hobbs of Orange, Calif., failed to timely disclose a late contribution totaling \$10,500 (1 count). \$1,575 fine.

- **In the Matter of Jillian Manus-Salzman, FPPC No. 2004-149.**

Jillian Manus-Salzman of Palo Alto, Calif., failed to timely disclose a late contribution totaling \$21,200 (1 count). \$3,180 fine.

- **In the Matter of Jerome S. Moss, FPPC No. 2004-150.**

Jerome S. Moss of Beverly Hills, Calif., failed to timely disclose a late contribution totaling \$10,000 (1 count). \$1,500 fine.

- **In the Matter of Nelson Homes, Inc., FPPC No. 2004-151.**

Nelson Homes, Inc. of Selma, Calif., failed to timely disclose a late contribution totaling \$10,000 (1 count). \$1,500 fine.

- **In the Matter of T. Boone Pickens, Jr., FPPC No. 2004-152.**

T. Boone Pickens, Jr. of Dallas, Tex., failed to timely disclose a late contribution totaling \$30,000 (1 count). \$3,500 fine.

- **In the Matter of Republican Main Street Partnership, Inc., FPPC No. 2004-153.**

Republican Main Street Partnership, Inc., of Washington, D.C., failed to timely disclose a late contribution totaling \$21,200 (1 count). \$3,180 fine.

- **In the Matter of Francine & Carl Thompson, FPPC No. 2004-158.**

Francine & Carl Thompson of Stockton, Calif., failed to timely disclose a late contribution totaling \$12,000 (1 count). \$1,800 fine.

- **In the Matter of Daniel D. Villanueva, FPPC No. 2004-159.**

Daniel D. Villanueva of Somis, Calif., failed to timely disclose a late contribution totaling \$10,000 (1 count). \$1,500 fine.

- **In the Matter of Carolee White, FPPC No. 2004-160.**

Carolee White of Portola Valley, Calif., failed to timely disclose a late contribution totaling \$10,000 (1 count). \$1,500 fine.

- **In the Matter of Donahue Wildman, FPPC No. 2004-161.**

Donahue Wildman of Malibu, Calif., failed to timely disclose a late contribution totaling \$10,000 (1 count). \$1,500 fine.

## April Commission Meeting

### Major Donor Reporting Violations

- **In the Matter of Weider Publications, Inc., FPPC No. 03/551.**

Staff: Commission Counsel Jennie Eddy and Investigator III Jon Wroten.

Weider Publications, Inc., a health and fitness publications corporation in Woodland Hills, Calif., committed two violations of the Political Reform Act by failing to timely file a semi-annual campaign statement, in violation of section 84200(b) (1 count), and by failing to file a semi-annual campaign statement electronically, in violation of section 84605(a) (1 count). \$6,000 fine.

- **In the Matter of Eugene Williams, FPPC No. 03/550.**

Staff: Commission Counsel Jennie Eddy and Investigator III Jon Wroten.

(Continued on page 12)

(Continued from page 11)

Eugene Williams, a retired resident of St. Louis, Mo., committed one violation of the Act by failing to timely file a semi-annual campaign statement, in violation of section 84200(b) (1 count). \$2,000 fine.

**In the Matter of American Housing Construction, Inc., FPPC No. 03/638.**

Staff: Commission Counsel Jennie Eddy and Investigator III Jon Wroten.

American Housing Construction, Inc., a real estate development and construction corporation in Los Angeles, Calif., committed one violation of the Act by failing to timely file a semi-annual campaign statement, in violation of section 84200(b) (1 count). \$2,000 fine.

**In the Matter of Mammoth Mountain Ski Area, FPPC No. 03/486.**

Staff: Commission Counsel Jennie Eddy and Investigator III Jon Wroten.

Mammoth Mountain Ski Area, a ski resort in Mammoth Lakes, Calif., committed one violation of the Act by failing to timely file a semi-annual campaign statement, in violation of section 84200(b) (1 count). \$2,000 fine.

**In the Matter of Sudhakar Company, Inc., FPPC No. 03/554.**

Staff: Commission Counsel Jennie Eddy and Investigator III Jon Wroten.

Sudhakar Co., Inc., a construction company in Rialto, Calif., committed one violation of the Act by failing to timely file a semi-annual campaign statement, in violation of section 84200(b) (1 count). \$2,000 fine.

**Campaign Reporting Violations**

**In the Matter of Kathleen E. Doyle, Kathleen Doyle for Supervisor, and Erin Doyle, FPPC No. 01/403.**

Staff: Commission Counsel Elizabeth K. Conti and Investigator II Charlie Bilyeu.

Kathleen E. Doyle was an unsuccessful candidate for a seat on the Sonoma County Board of Supervisors, second district, in the 1998 Primary election. Kathleen Doyle for Supervisor was the controlled committee of Kathleen Doyle. Erin

Doyle was the treasurer of the committee. Respondents committed three violations of the Act by failing to keep the required campaign records necessary to prepare three campaign statements, in violation of section 84104 (3 counts). \$4,000 fine.

**SEI Violations**

**In the Matter of Benjamin Antioquia, FPPC No. 01/721.**

Staff: Commission Counsel Jeffery A. Sly and SEI Coordinator Mary Ann Kvasager.

Benjamin Antioquia, a member of the Dental Examiners Board for the California Department of Consumer Affairs, failed to timely file a 2001 and 2002 annual Statement of Economic Interests, in violation of section 87300 (2 counts). \$600 fine.

**In the Matter of Nori Lietz, FPPC No. 02/624.**

Staff: Commission Counsel Jeffery A. Sly and SEI Coordinator Mary Ann Kvasager.

Nori Lietz, a financial investment consultant for CalPERS, failed to timely file a 2001 annual Statement of Economic Interests, in violation of section 87300 (1 count). \$600 fine.

**Late Contribution – Streamlined Program**

**Failure to Timely File Late Contribution Reports – Proactive Program.**

Staff: Chief Investigator Alan Herndon, Investigator III Jon Wroten, and Political Reform Consultant Mary Ann Kvasager.

The following persons and entities have entered into stipulations for failure to file late contribution reports in 2003, in violation of section 84203:

- **In the Matter of Kenneth A. & Roberta E. Eldred, FPPC No. 2004-141.**  
Kenneth A. & Roberta E. Eldred of Portola Valley, Calif., failed to timely disclose a late contribution totaling \$20,000 (1 count). \$3,000 fine.
- **In the Matter of Bradford C. Koenig, FPPC No. 2004-147.**  
Bradford C. Koenig of Atherton, Calif., failed to timely disclose a late contribution totaling \$20,000 (1 count). \$3,000 fine.

(Continued on page 13)

(Continued from page 12)

- **In the Matter of William Wilson III, FPPC No. 2004-162.**

William Wilson III of San Francisco, Calif., failed to timely disclose a late contribution totaling \$10,000 (1 count). \$1,500 fine.

### Major Donor – Streamlined Procedure

#### **Failure to Timely File Major Donor Campaign Statements.**

Staff: Chief Investigator Alan Herndon, Investigator III Jon Wroten, and Political Reform Consultant Mary Ann Kvasager.

The following persons and entities have entered into stipulations for failing to file major donor campaign statements that were due for the calendar year of 2002, in violation of section 84200:

- **In the Matter of Margaret M. Howard Miller, FPPC No. 2003-555.**

Margaret M. Howard Miller of Los Angeles, Calif., failed to timely disclose contributions totaling \$10,000 (1 count). \$400 fine.

## **Commission, Bustamante Agree to \$263,000 Civil Settlement**

The Fair Political Practices Commission has reached a \$263,000 civil settlement with Lt. Governor Cruz Bustamante and three of his campaign committees – “Lieutenant Governor Bustamante 2002 Committee,” “Yes on Bustamante,” and “The Bustamante Committee Against Prop. 54” – for manipulating funds and mischaracterizing transactions in order to evade contribution limits in the Oct. 7, 2003, gubernatorial election.

The FPPC suit alleged that Bustamante and his committees raised funds for Bustamante’s campaign for governor, deposited the funds into the bank account of the lieutenant governor’s 2002 re-election committee, and mischaracter-

ized the contributions as contributions to the 2002 committee – a committee which was not subject to contribution limits – all in order to collect \$3.8 million dollars in excess of the limits.

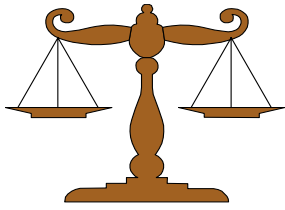
The final judgment, based on a stipulation signed by the FPPC and Bustamante, was approved April 12, 2004, by Sacramento Superior Court Judge Loren McMaster, who said in his order that the court “finds the proposed settlement to be fair, just, and reasonable to all parties.”

## **Commission, Caroline Getty Agree to \$135,000 Civil Settlement**

The Fair Political Practices Commission has reached a \$135,000 civil settlement with Caroline Getty and her company, Wild Rose, LLC, for illegally funneling \$1 million in political contributions to support California ballot measures in 2000 and 2002.

The FPPC suit alleged that in January 2000, Getty, an heir to the Getty oil fortune, used Wild Rose, LLC, as a conduit for a \$500,000 political contribution in order to disguise that she was making the contribution from her personal trust account. She then failed to file a major donor campaign statement disclosing that she made the contribution. The suit also alleged that in 2002 she made another \$500,000 political contribution through Wild Rose, LLC, to again disguise her identity as the source of the contribution.

The civil lawsuit was filed by the FPPC in Sacramento Superior Court on Oct. 16, 2003. Getty filed a motion to have the case dismissed in December 2003, but that motion was denied by Superior Court Judge Shelleyanne W.L. Chang on Jan. 16, 2004. The parties subsequently engaged in discussions that led to a stipulated judgment settling the case. The final judgment, based on a stipulation signed by the FPPC and Getty, was approved on March 25, 2004.



## Litigation Report

Pending litigation report prepared for the Commission's June 25, 2004, meeting:

### ***California ProLife Council, Inc. v. Karen Getman et al.***

This action challenges the Act's reporting requirements for express ballot measure advocacy. In October 2000 the Federal District Court for the Eastern District of California dismissed certain counts for standing and/or failure to state a claim, and later granted the FPPC's motion for summary judgment, eliminating further counts in a judgment entered on January 22, 2002. Plaintiff appealed that judgment to the Ninth Circuit Court of Appeal. The Ninth Circuit rejected plaintiff's legal claims, affirming that the challenged statutes and regulations were not unconstitutionally vague, and that California may regulate ballot measure advocacy upon demonstrating a sufficient state interest in so doing. The Ninth Circuit remanded the matter back to the district court to determine whether California can establish a state interest sufficient to support its committee disclosure rules, and whether the state's disclosure rules are properly tailored to that interest. To permit more time for discovery, the district court issued an amended Scheduling Order, providing that discovery would end on May 17, 2004, with disclosure and discovery relating to expert witnesses to conclude on August 20, 2004. Dispositive motions, if any, will be heard no later than October 29, 2004. Trial is now set for March 7, 2005.

### ***FPPC v. Agua Caliente Band of Cahuilla Indians, et al.***

The FPPC alleges in this action that the Agua Caliente Band of Cahuilla Indians contributed more than \$7.5 million to California candi-

dates and ballot measure campaigns between January 1 and December 31, 1998, but did not timely file major donor reports disclosing those contributions, and likewise failed to disclose more than \$1 million in late contributions made between July 1, 1998 and June 30, 2002. The FPPC later amended the complaint to add a cause of action alleging that the tribe failed to disclose a \$125,000 contribution to the Proposition 51 campaign on the November 5, 2002 ballot. Defendants responded to the lawsuit by filing a motion to quash service, alleging that they are not required to comply with the Political Reform Act because of tribal sovereign immunity. On February 27, 2003 the Honorable Loren McMaster of the Sacramento County Superior Court ruled in the FPPC's favor. On April 7, defendants filed a petition for writ of mandate in the Third District of the Court of Appeal, challenging the decision of the trial court. The petition was summarily denied on April 24, 2003, whereupon defendants filed a petition for review in the California Supreme Court. On July 23, 2003 the Supreme Court granted review and transferred the case back to the Court of Appeal, where oral argument was heard before Justices Blease, Sims, and Davis. On March 3, 2004, the Court issued its opinion, affirming the Superior Court's decision after concluding that "the constitutional right of the State to preserve its republican form of government trumps the common law doctrine of tribal immunity." On April 6, 2004, Blue Lake Rancheria and Mainstay Business Solutions, a Government Sponsored Enterprise of the Blue Lake Rancheria, filed with the California Supreme Court a request for depublication of the court of appeal decision. Associate Justice Rick Sims of the Third District Court of Appeal, author of the opinion, filed a letter with the supreme court on April 19, 2004, requesting that the depublication request be denied on the ground that it had not been properly served on the Third District Court of Appeal, depriving him of the opportunity to respond to the depublication request. In the interim, on April 13, 2004, the Agua Caliente Band of Cahuilla Indians filed a Petition for Review in the California Supreme Court. The supreme court must either grant or deny the petition for review no later than July 12, 2004.

*(Continued on page 15)*

## ...Litigation Report

(Continued from page 14)

### ***FPPC v. Santa Rosa Indian Community of the Santa Rosa Rancheria***

In this action the FPPC alleges that the Santa Rosa Indian Community of the Santa Rosa Rancheria failed to file major donor semi-annual campaign statements in the years 1998, 1999, and 2001, involving more than \$500,000 in political contributions to statewide candidates and propositions, and that defendants failed to disclose more than \$350,000 in late contributions made in October 1998. The complaint was originally filed on July 31, 2002, and was amended on October 7, 2002. On January 17, 2003, defendants filed a motion to quash service, based on its claim of tribal sovereign immunity. On May 13, 2003, the Honorable Joe S. Gray of the Sacramento County Superior Court entered an order in favor of defendants. On July 14, 2003, the FPPC appealed this decision to the Third District Court of Appeal, where the matter is now scheduled for oral argument on August 18, 2004. The Attorney General has filed an amicus brief in support of the FPPC's position.

### ***FPPC v. American Civil Rights Coalition, et al.***

In a lawsuit filed in the Sacramento County Superior Court on Sept. 3, 2003, the FPPC alleges that the American Civil Rights Coalition ("ACRC") and its CEO Ward Connerly failed to file campaign statements reporting the source of almost \$2 million contributed to promote the passage of Proposition 54 on the Oct. 7 ballot. An application for intervention in the lawsuit was filed on September 16 by a group known as the "DOE Class" of past and potential contributors to ACRC, seeking among other things to postpone a hearing on the FPPC's motion for preliminary injunction to an unspecified later date. The court went forward with the injunction hearing on September 19, 2004, denying the FPPC's motion on

the ground that the factual record was not sufficiently developed to warrant a preemptive remedy. Defendants next brought a special motion to strike the complaint under Code of Civil Procedure § 425.16. On December 1, 2003, the Superior Court denied that motion. On December 3, defendants appealed to the Third District Court of Appeal, where briefing has now been completed, and the parties are waiting for the Court to set a date for oral argument. A case management conference in the Superior Court has been continued to September 2, 2004.

### ***Evans v. FPPC, et al.; Walters v. FPPC, et al.***

The plaintiffs in these cases are state Assembly candidates on the March primary ballot. They obtained writs from the Sacramento Superior Court in December, allowing each to amend his Candidate Statement of Intention to change the indicated intent to accept or reject voluntary expenditure limits. The Secretary of State and the FPPC opposed plaintiffs' writ petitions, and the FPPC immediately sought a writ of mandamus in the Third District Court of Appeal to over-turn the lower court's decisions. This petition was denied

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**FPPC**  
**Toll-free Advice Line:**  
**1-866-ASK-FPPC**  
**(1-866-275-3772)**

## ...Litigation Report

(Continued from page 15)

without comment, with one judge indicating he would grant the writ. The FPPC has filed a Notice of Appeal, to secure an appellate decision on the merits of the Superior Court's actions. The FPPC's opening briefs are currently due on June 28, 2004, in the *Evans* case, and on May 28, 2004 in the *Walters* case.

### **Larry R. Danielson v. FPPC**

On March 13, 2004, Danielson filed a Notice of Appeal from a money judgment entered against him by the Sacramento County Superior Court. Danielson had previously sought a Writ of Mandate in that court, challenging a proposed decision by an Administrative Law Judge which the Commission adopted at its December 2002 meeting. On November 7, 2003, the Superior Court denied the appellant's petition. The FPPC then filed its complaint for a money judgment, and prevailed on a motion for summary judgment, which is the subject of the present appeal. Because Daniels missed the deadline for depositing the fees to pay for the transcript of the hearing, on April 13, 2004, he filed a Notice of Motion and Motion to Include Reporter's Transcript on Appeal, which was granted by the court on April 20, 2004. Therefore, the transcript is being prepared and, once it is filed with the court, the 20-day period within which Daniels must file his opening brief will commence. The case is before the Appellate Division of the Sacramento Superior Court. The Attorney General's office is representing the FPPC in this matter.

## Legislative Update



The following is condensed from the Legislative Report prepared on May 27, 2004, for the June 2004 meeting of the Commission, with selected updates. For the complete report, please see the meeting agenda on our web site at:

<http://www.fppc.ca.gov/index.html?id=329>

### **Bills proposing to amend the Political Reform Act and/or Elections Code:**

**AB 890 (Levine)** was amended to include the contents of SB 1072 (Burton), a bill introduced last year to address a controversy arising out of the 2002 state general election involving late contributions from 21<sup>st</sup> Century Insurance. The language would make state and county political party committees state general purpose committees, thus subjecting them to pre-election disclosure requirements, and also include aggregated contributions of \$1000 or more to a political party committee in the definition of late contributions.

**SB 1849 (Karnette)** would drop the threshold for electronic filing of campaign reports from \$50,000 to \$25,000 in contributions or expenditures. Language requiring lobbyist firm and lobbyist employer reports that are currently filed quarterly to be filed monthly has been removed.

**AB 1784 (Wolk)** would prohibit a lobbyist from contacting an elected state officer, other than a legislator, with whom the lobbyist has or had a contractual or business relationship, for the purpose of influencing legislative or administrative action. The bill would define contractual and business relationships and require lobbyists to notify the Secretary of State within 14 days of a

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contractual or business relationship with an elected state officer. AB 1784 would also require that candidates report a contract or agreement that includes a payment contingent upon the candidate's election to office.

**AB 1785 (Frommer)** would prohibit a lobbyist from contacting a legislator with whom the lobbyist has or had a contractual or business relationship, for the purpose of influencing legislative or administrative action. The measure would require lobbyists to notify the Secretary of State within 14 days of a contractual or business relationship with an elected state officer.

**AB 2818 (Pacheco)** would require the Commission to adjust the disclosure and disqualification threshold of section 84308 to reflect changes in the Consumer Price Index since January 1, 1983, and to adjust it in the future in every odd-numbered year.

**AB 2842 (Leno)** would provide that bank loans are not exempt from the \$100,000 personal loan limit imposed on elective state office candidates by Proposition 34.

**AB 2949 (Hancock)** would repeal a provision prohibiting public officers from expending or accepting public funds for purposes of seeking elective office, and would enact the California Clean Money and Clean Elections Act of 2004, which would authorize eligible candidates, as defined, to obtain public funds according to specified procedures and requirements, provided that certain thresholds are attained.

**AB 3006 (Haynes)** would prohibit legislators and constitutional officers from accepting contributions during the period between the annual submission of the Governor's Budget and the enactment of the state budget.

**AB 3101 (ER&CA)** would provide that a candidate may not change his or her acceptance or rejection of voluntary expenditure limits more than twice after the candidate's initial filing of a statement of intention to be a candidate.

**SB 1340 (Perata)** would, in addition to other changes, require filing officers for independent expenditure committees to maintain paper independent expenditure reports under the name of the candidate or measure supported or opposed by the independent expenditure. The bill would require retention of campaign records for five years, require audits of electronic reports and statements, and create a four-year statute of limitations for collection of fines.

**SB 1351 (Soto)** would prohibit former elected city and county officials who held a position with a local government agency from appearing before or communicating with that agency if the appearance or communication is made for the purpose of influencing administrative or legislative action, or influencing any action or proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, grant, or contract, or the sale or purchase of goods or property.

**SB 1353 (Perata)** would exclude certain benefit payments from the definition of "income" and would address methods of filing supplemental preelection statements.

**SB 1449 (Johnson)** would prohibit a candidate from loaning more than \$100,000 from any source, including bank loans, to his or her elective state office campaign.

**SB 1458 (Johnson)** would require that the Franchise Tax Board complete its report of any audit conducted on a random basis within one year after the person or entity subject to the audit is selected by the Commission to be audited. The measure also would prohibit the filing of a civil action more than four years after the board could begin an audit of the candidate, or more than one year after the board forwards its report to the Commission of a completed audit of any person or entity alleged to have violated the requirements for campaign statements and reports, whichever period is less.

**SB 1712 (Alpert)** would require the Secretary of State's office to review current filing and disclosure requirements of the Online Disclosure Act of 1997 and report to the Legislature, no later

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## ...Legislative Update

(Continued from page 17)

than June 1, 2005, its recommendations on revising requirements so as to promote greater reliance on electronic and online submissions.

**SB 1730 (Johnson)** would change the statewide direct primary election from being held on the first Tuesday after the first Monday in March in each even-numbered year, to being held on the first Tuesday after the first Monday in June of each year. The measure would change the established mailed ballot elections date from the first Tuesday after the first Monday in June of each even-numbered year to March of each even numbered year.

**SB 1902 (Florez)** would require a nonprofit corporation that has an elected official as its president or on its governing board to disclose its finances to the FPPC by April 15 each year.

**AB 1197 (Wiggins)** would include in the definition of "designated employee" any board member, chief business officer, superintendent, assistant superintendent, deputy superintendent, associate superintendent, chief personnel officer, and general counsel of a public school district or county office of education, and equivalent positions, and any individual having governance or management responsibility in a charter school. The bill would designate the county board of education as the code reviewing body for charter schools.

**SB 604 (Perata)** would define "cumulative contributions" to be those contributions received beginning 12 months prior to the date the committee made its first expenditure to qualify, support, or oppose the measure and ending within seven days of the time the advertisement is sent to the

printer or broadcast station. The measure would delete references to telegrams and would add methods for filing, including facsimile transmission and guaranteed overnight delivery. The measure was amended by the author at the request of plaintiffs in *Levine v. FPPC* to reform the slate mail disclosure statutes at issue in that case.

**SB 641 (Brulte)** would change the definition of "mass mailing" found in the Act from "mail" to a specific definition of what items delivered to a person constitute a mass mailing. The measure would also add language to the act prohibiting the expenditure by a candidate, committee or slate mail organization for anonymous telephone advocacy for a candidate, ballot measure, or referendum. The author accepted an amendment requested by the Commission to maintain a record of the call's script or in the case of a prerecorded message, a taped copy. This would not apply to telephone calls made by the candidate, campaign manager, or volunteers.

**SB 1072 (Burton)** would add contributions made to or received by a political party committee after the closing date of the last campaign statement required to be filed before an election to the definition of late contribution

**SCA 14 (Vasconcellos)** would establish the FPPC, California Economic Strategy Panel (CESP) and the California Redistricting Commission by constitutional provision. It would establish the Clean Campaign Fund, administered by the FPPC and providing public funds to candidates under certain conditions. It would require the FPPC to license and monitor campaign consultants. It would change voting options and primary election dates. It would increase the number of Senators and Assemblymembers and their terms of office. It would change the voting requirement for General Fund appropriations from a 2/3 vote to a majority vote. It would place additional responsibilities on the CESP. It would make the Legislative Counsel responsible for redistricting, revise redistricting standards and create the CRC for the purpose of advising the Legislative Counsel.

## FPPC Advice Summaries

Formal written advice provided pursuant to Government Code section 83114 subdivision (b) does not constitute an opinion of the Commission issued pursuant to Government Code section 83114 subdivision (a) nor a declaration of policy by the Commission. Formal written advice is the application of the law to a particular set of facts provided by the requestor. While this advice may provide guidance to others, the immunity provided by Government Code section 83114 subdivision (b) is limited to the requestor and to the specific facts contained in the formal written advice. (Cal. Code Regs., tit. 2, §18329, subd. (b)(7).)

Informal assistance may be provided to persons whose duties under the act are in question. (Cal. Code Regs., tit. 2, §18329, subd. (c).) In general, informal assistance, rather than formal written advice is provided when the requestor has questions concerning his or her duties, but no specific government decision is pending. (See Cal. Code Regs., tit. 2, §18329, subd. (b)(8)(D).)

Formal advice is identified by the file number beginning with an "A," while informal assistance is identified by the letter "I."

## Campaign

**Timothy O. Stoen**  
**County of Humboldt**  
**Dated: February 11, 2004**  
**File Number A-03-185**

A district attorney may solicit individuals and organizations to make payments directly to a private law firm for costs of a lawsuit the district attorney's office is authorized to litigate. Such payments which are made at the behest of the district attorney by third persons directly to the law firm are not contributions provided they are made principally for legislative, governmental or charitable purposes. (Supersedes *Totten* Advice Letter No. A-03-130.)

**James Stevens**  
**Franchise Tax Board**  
**Dated: February 9, 2004**  
**File Number A-03-187**

Candidate controlled committees supporting or opposing the recent gubernatorial recall initiative are ballot measure committees subject to mandatory audit under section 90001(g). Candidate controlled committees, and committees formed primarily to support or oppose replacement candidates for Governor, are not subject to mandatory audit under sections 90001(b) and 90001(f), respectively. These mandatory audit provisions apply only in context of direct primary or general elections; the election of a replacement candidate in a recall election is a special election. Finally, the period covered by the mandatory audit of the former Governor's controlled committee opposing the recall initiative begins on January 1, 2003.

**Russell H. Miller**  
**State Assembly**  
**Dated: February 10, 2004**  
**File Number A-04-018**

Transfers of funds from one of a state candidate's campaign committees to another committee controlled by the same candidate are not subject to reporting under sections 84203 or 85309.

**Vigo G. Nielsen**  
**Edvoice**  
**Dated: January 20, 2004**  
**File Number A-03-255**

A major donor need not amend prior campaign reports in the event that a candidate transfers to a different committee contributions made by the major donor.

**The Honorable Bruce McPherson**  
**California Senate**  
**Dated: January 21, 2004**  
**File Number A-04-008**

A candidate is advised on the permissible uses for surplus funds from a pre-Proposition 34 committee and the applicability of the Commission's recently adopted regulation regarding net debt fundraising.

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## Conflict of Interest

**Ronald R. Ball**  
**City of Carlsbad**  
**Dated: February 11, 2004**  
**File Number I-03-240**

Nine projects which are parts of a redevelopment project within a city are separately examined for analysis of a conflict of interest, to determine whether a city council member may vote on any of the governmental decisions.

**Dean Derleth**  
**City of Colton**  
**Dated: February 2, 2004**  
**File Number A-03-247**

A city attorney was provided clarification of prior advice he received in order to correct a listing of public officials having a conflict of interest in his city's redevelopment plan decisions, based on their economic interest in their principal residences. The city attorney was also advised that it is for the public officials, and not the Commission, to determine whether it is reasonably foreseeable that a particular governmental decision will have a material financial effect. The city attorney was provided a list of factors from regulation 18706(b) which a public official may use as a guide to the facts upon which he or she may rely in order to make this determination.

**Kevin G. Ennis**  
**L.A. Care Health Plan**  
**Dated: February 13, 2004**  
**File Number A-03-256**

Reconsideration was sought of prior advice which applied the special form of the "public generally" exception applicable to appointed members of boards or commissions. On reconsideration, the advice provided further analysis of this exception and clarified that under regulation 18707.4(a)(4), the persons a member was appointed to represent are identified by not only the interest which they share with the appointed official, but also by the geographic area which comprises the jurisdiction of the agency, unless the appointive statute or ordinance specifies a different geographic area. In this instance, the official

was appointed to represent all of the free and community clinics located in a county.

**George C. Spanos**  
**Department of Justice**  
**Dated: February 19, 2004**  
**File Number A-04-025**

A member of a state commission who is the owner of a trucking business may participate in a decision to convey excess Caltrans property provided it is not reasonably foreseeable that the decision will materially affect his economic interests.

**Mark Brodsky**  
**City of Monte Sereno**  
**Dated: January 26, 2004**  
**File Number A-03-259**

A council member requested advice on whether he could participate in multiple projects on which he had campaigned. The first proposal would affect his property which is within 500 feet, so he would be required to rebut the presumption of material effect or apply the "public generally" exception. The other two proposals are broad ordinance changes which would not create a conflict of interest for the council member unless the presumption of non-materiality is rebutted.

**Robert E. Davis, CPA**  
**City of Glendora**  
**Dated: January 15, 2004**  
**File Number A-03-260**

It is presumed that a planning commissioner has a conflict of interest in a decision involving his real property interest located within 500 feet of property which is the subject of the decision.

**Elizabeth Wagner Hull**  
**City of Chula Vista**  
**Dated: January 6, 2004**  
**File Number A-03-280**

It is presumed that the real properties of two council members will experience a material financial effect as a result of a governmental decision. Unless this presumption is rebutted, the council members are disqualified from participating in the decision.

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**Michael J. Mais**  
**City of Long Beach**  
**Dated: January 6, 2004**  
**File Number A-03-302**

An airport commissioner, absent specific facts rebutting a presumption that the decision will not have a material financial effect on his economic interests, may vote on an environmental impact report concerning an airport terminal construction project more than ½ mile from his real property, even though the boundaries of the airport property lie within 500 feet of the commissioner's real property.

**John F. Hahn**  
**County of Amador**  
**Dated: January 26, 2004**  
**File Number A-04-005**

A county supervisor who received a notice of lay-off from his state agency employer sought advice as to whether he was prohibited by the conflict-of-interest provisions of the Act from discussing with his fellow supervisors and participating in their vote on whether to oppose the layoffs. The supervisor was advised that he had a conflict of interest prohibiting his participation as a supervisor in the discussion and vote, based on the reasonably foreseeable financial effect upon his personal finances. The supervisor did not qualify for the exception permitting participation as a member of the general public since his interest in his employer did not constitute a "personal interest" within the meaning of regulation 18702.4.

## Conflict of Interest Code

**Mary Tobias Weaver**  
**Quality Education Commission**  
**Dated: January 15, 2004**  
**File Number A-03-225**

A newly created Commission is a state agency and its members are required to disclose their economic interests under the provisions of section 87302.6 of the Act, is the conclusion of this letter.

## Gift Limits

**Victoria LaMar-Haas**  
**Governor's Office of Emergency Services**  
**Dated: February 10, 2004**  
**File Number A-04-003**

A discount given by Disneyland to all firefighters, emergency personnel and rescue personnel in the State of California meets the intent of the *Russel* opinion and is not a gift subject to the Act's disclosure and gift limits.

**Don Schwartz, Director**  
**Great Valley Center**  
**Dated: January 7, 2004**  
**File Number A-03-290**

The director of a 501(c)(3) nonprofit that wishes to pay tuition for elected officials to attend programs designed to enhance their leadership skills is advised that such payments fall into the category of "informational material" and as such, are not considered "gifts" under the Act.

## Mass Mailing

**Stefanie K. Vaudreuil**  
**Chula Vista Elementary School District**  
**Dated: February 25, 2004**  
**File Number I-03-298**

A school district-issued newsletter under the mass mailing regulations is examined and found not to have met the mass mailing definition because less than 200 substantially similar newsletters are sent in any given month.

**Alita Godwin, City Clerk**  
**City of Compton**  
**Dated: January 27, 2004**  
**File Number A-04-004**

The council member was advised that a mass mailing to be sent at city expense will be permitted under regulation 18901(b)(9), the "announcement" exception, if there is only a single mention of the council member's name.

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## Personal Use

**Thomas W. Hiltachk**  
**Office of the Governor**  
**Dated: February 4, 2004**  
**File Number A-04-006**

Campaign funds may be used to pay for hotel accommodations while on official business. Per IRS § 162, these payments may be made for a period not to exceed one year.

**Ken Carpenter**  
**Culver City Fire Fighters**  
**Dated: February 18, 2004**  
**File Number A-04-023**

A local firefighter's political action committee may use PAC funds to send one or two of its members to an employer/employee relations seminar in Sacramento that will cover contract negotiations, because the use of funds is directly related to a political, legislative or governmental purpose of the PAC.

## Revolving Door

**Carlos Ramos**  
**Stephen P. Teale Data Center**  
**Dated: February 20, 2004**  
**File Number I-04-044**

A state employee who, upon termination of his political appointment to one agency, exercised his right of reinstatement to return to his former state agency employer, sought advice to identify which of these two agencies would be his "former state administrative agency employer" for purposes of the one-year "revolving door" ban. The employee was advised that exercising his right of reinstatement placed him under an employment agreement with that agency. Since he is being paid by one for vacation leave accrued while a political appointee at another agency and has not received compensation in connection with services performed in connection with his reinstatement, should he leave state service immediately upon expiration of his accrued vacation leave, the agency to which he was reinstated will not be a "former state admin-

istrative agency employer" for purposes of the one year ban.

**Paul D. Bresnan**  
**Secretary of State**  
**Dated: January 6, 2004**  
**File Number A-03-269**

A state administrative agency employee who is contemplating retirement, sought advice as to whether the "revolving door" or "permanent ban" provisions of the Act will prohibit him, after retirement, from appearing before or communicating with his former employer in order to obtain approval of a study course he intends to provide for notary public examinees. The employee also questioned whether these provisions prohibit him from providing training to these potential examinees.

The employee was advised that the revolving door prohibition applies only when an appearance or communication is in a paid, representative capacity and does not apply when a former employee is representing his or her own business interests. Thus, the one year, or revolving door ban does not apply to his application before his former employer for course approval. Similarly, the one-year ban does not apply when he provides training to potential examinees since such training would not constitute an appearance or communication before his former state agency employer. Although an application for course approval constitutes a judicial, quasi-judicial or other proceeding under the permanent ban, it would not be a proceeding in which he previously participated in his capacity as a state employee. Further, the training course itself would not be a judicial, quasi-judicial or other proceeding. Thus, the permanent ban does not prohibit these actions.

## Statement of Economic Interests

**Richard Cromwell, III**  
**Sun Line Transit Agency**  
**Dated: January 6, 2004**  
**File Number I-03-294**

In order to correct an error reported on a statement of economic interests, the filer must file an

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amendment correcting the information. In addition, the requestor was advised to amend any statements containing errors which were up to seven years old. Although the Act does not specify a deadline by which an amendment must be filed, the requestor was advised to file any required amendments as soon as practicable, and that they must be filed with the same filing officer as the original statements were filed.

**Michael A. Kvarme**

**California Travel and Tourism Commission**

**Dated: January 6, 2004**

**File Number A-03-301**

Ex officio members of state boards and commissions must file statements of economic interests if they participate in making governmental decisions.

